

diesel fuel acquired in a transaction subject to tax at the rate set forth in paragraph (b)(1)(ii)(A) of § 48.4041-1 is used as described in paragraph (b)(1)(ii)(C) of § 48.4041-1 or in another nontaxable use.

(iii) On or after August 1, 1984, and before October 1, 1988, if a person acquires any diesel fuel by any means other than through a transaction subject to tax under section 4041(a)(1)(A) and uses it as a fuel in a diesel-powered highway vehicle, the person is liable for a tax under section 4041(a)(1)(B) on the quantity of diesel fuel so used at the appropriate rate set forth in paragraph (b)(1)(iii) of § 48.4041-1. If a person acquired any diesel fuel through a transaction for which no tax is imposed by reason of paragraph (b)(1)(iii)(C) of § 48.4041-1 and uses it in other than a nontaxable use, the person is liable for a tax under section 4041(a)(1)(B) on the quantity of fuel so used. See paragraph (b)(1)(iii)(D) of § 48.4041-1 for the applicable rate of tax. See section 6427(a) for credit or refund of tax where diesel fuel acquired in a transaction subject to tax at the rate set forth in paragraph (b)(1)(iii)(A) of § 48.4041-1 is used as described in paragraph (b)(1)(iii)(C) of § 48.4041-1 or in another nontaxable use.

(2) *Special motor fuel.* (i) On or after January 1, 1979, and before April 1, 1983, if a person acquired any special motor fuel by any means other than through a transaction subject to tax under section 4041(b)(1) and uses it as a fuel in a motor vehicle or motorboat, the person is liable for a tax under section 4041(b)(2) on the quantity of special motor fuel so used at the appropriate rate set forth in § 48.4041-1(b)(2)(i). If a person acquired any special motor fuel through a transaction with is subject to a tax at the rate set forth in paragraph (b)(2)(i)(C) of § 48.4041-1 and uses it in a use other than one for which the reduced rate applies, the person is liable for an additional tax under section 4041(b)(2) on the quantity of special motor fuel so used. See § 48.4041-1(b)(2)(i)(D) or (E) for the applicable rate of tax. See section 6427(a) for credit or refund of tax where special motor fuel acquired in a transaction subject to tax at the rate set forth in paragraph (b)(2)(i)(A) of § 48.4041-1 is used for a purpose described in paragraph

(b)(2)(i)(C) of § 48.4041-1 or in a nontaxable use.

(ii) On or after April 1, 1983, and before October 1, 1988, if a person acquired any special motor fuel by any means other than through a transaction subject to tax under section 4041(a)(2)(A) and uses it as a fuel in a motor vehicle or motorboat, the person is liable for a tax under section 4041(a)(2)(B) on the quantity of special motor fuel so used at the appropriate rate set forth in paragraph (b)(2)(ii) of § 48.4041-1. If a person acquired any special motor fuel through a transaction for which no tax is imposed by reason of paragraph (b)(2)(ii)(C) of § 48.4041-1 and uses it in other than a nontaxable use, the person is liable for a tax under section 4041(a)(2)(B) on the quantity of fuel so used. See paragraph (b)(2)(ii)(D) of § 48.4041-1 for the applicable rate of tax. See section 6427(a) for credit or refund of tax where special motor fuel acquired in a transaction subject to tax at the rate set forth in paragraph (b)(2)(ii)(A) of § 48.4041-1 is used for a purpose described in paragraph (b)(2)(ii)(C) of § 48.4041-1 or in another nontaxable use.

(3) *Noncommercial aviation.* If a person acquires any liquid fuel by any means other than through a transaction subject to tax under section 4041(c)(1)(A) or section 4041(c)(2)(A) and uses it as fuel in an aircraft in noncommercial aviation, the person is liable for a tax under section 4041(c)(1)(B) or section 4041(c)(2)(B) on the quantity of the liquid fuel so used at the appropriate rate set forth in § 48.4041-1(b)(3).

(b) *Bulk purchases by users.* Taxpayers who purchase taxable liquid fuel in bulk delivered into storage tanks or other containers and use it for taxable or nontaxable purposes or in registered and nonregistered vehicles must maintain adequate records of all fuel used for each purpose to permit verification of the tax paid and of any credits, refunds, or exemptions claimed.

[T.D. 8066, 51 FR 15, Jan. 2, 1986]

#### **§ 48.4041-7 Dual use of taxable liquid fuel.**

Tax applies to all taxable liquid fuel sold for use or used as a fuel in the motor which is used to propel a diesel-powered vehicle or in the motor used to

propel a motor vehicle, motorboat, or aircraft, even though the motor is also used for a purpose other than the propulsion of the vehicle, motorboat, or aircraft. Thus, if the motor of a diesel-powered highway vehicle or a motorboat operates special equipment by means of a power take-off or power transfer, tax applies to all taxable liquid fuel sold for this use or so used, whether or not the special equipment is mounted on the vehicle or boat. For example, tax applies to diesel fuel sold to operate the mixing unit on a concrete mixer truck if the mixing unit is operated by means of a power take-off from the motor of the vehicle. Similarly, tax applies to all taxable liquid fuel sold for use or used in a motor propelling a fuel oil truck even though the same motor is used to operate the pump (whether or not mounted on the truck) for discharging the fuel into customers' storage tanks. However, tax does not apply to liquid fuel sold for use or used in a separate motor to operate special equipment (whether or not the equipment is mounted on the vehicle). If the taxable liquid fuel used in a separate motor is drawn from the same tank as the one which supplies fuel for the propulsion of the vehicle, a reasonable determination of the quantity of taxable liquid fuel used in such separate motor or during such period is acceptable for purposes of application of the tax. This determination must be based, however, on the operating experience of the person using the taxable liquid fuel, and the taxpayer must maintain records which support the allocation used. Devices to measure the number of miles the vehicle has traveled, such as hubometers, may be used in making a preliminary determination of the number of gallons of fuel used to propel the vehicle. In order to make a final determination of the number of gallons of fuel used to propel the vehicle, there must be added to this preliminary determination the amount of fuel consumed while idling or warming up the motor preparatory to propelling the vehicle.

[T.D. 8066, 51 FR 16, Jan. 2, 1986]

**§ 48.4041-8 Definitions.**

For purposes of the regulations in this subpart, unless otherwise expressly indicated:

(a) *Highway*. The term "highway" includes any road (whether a Federal highway, State highway, city street, rural road, or otherwise) in the United States which is not a private roadway.

(b) *Highway vehicle*—(1) *In general*. The term "highway vehicle" means any self-propelled vehicle, or any trailer or semi-trailer, designed to perform a function of transporting a load over highways, whether or not also designed to perform other functions, but does not include a vehicle described in paragraph (b)(2) of this section. For purposes of this definition, a vehicle consists of a chassis, or a chassis and a body if the vehicle has a body, but does not include the vehicle's load. Therefore, in determining whether a vehicle is a "highway vehicle", it is immaterial that the vehicle is designed to perform a highway transportation function for only a particular kind of load, such as passengers, furnishings and personal effects (as in a house, office, or utility trailer), a special type of cargo, goods, supplies, or materials, or, except to the extent otherwise provided in paragraph (b)(2)(i) of this section, machinery or equipment specially designed to perform some off-highway task unrelated to highway transportation. In the case of specially designed machinery or equipment, it is also immaterial, except as provided in paragraph (b)(2)(i) of this section, that such machinery or equipment is permanently mounted on the vehicle. For purposes of paragraph (b) of this section, the term "transport" includes the term "tow". A vehicle which is not a highway vehicle within the meaning of this paragraph shall be treated as a non-highway vehicle for purposes of section 4041. Examples of vehicles that are designed to perform a function of transporting a load over the public highways are passenger automobiles, motorcycles, buses, and highway-type trucks, truck tractors, trailers, and semi-trailers.

(2) *Exceptions*—(i) *Certain specially designed mobile machinery for nontransportation functions*. A self-propelled vehicle, or trailer or semi-trailer, is not a